

**Manatee Protection Plan Review Committee (MPPRC)
Minutes of July 29, 2009 Meeting**

Committee Attendees: Brett Bibeau; Richard Bunnell*; T. Spencer Crowley III; Judith Futerfas; David Gardner; Lynda Green; Alberto Lamadrid; Mark Lewis; Kate Mansfield, Ph.D; Robert Moser; Manny Prieguez (Chair); Dick Townsend (Vice Chair)

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Lisbeth Britt (DERM); Molly Messer (DERM); Matt Davis (DERM); Lisa Spadafina (DERM); Forrest Shaw (DERM); Sheri Kempinski (DERM); India Pascullis (DERM); Kevin Asher (MD Park & Recreation)

Other Attendees: A sign in sheet was provided for public sign in.

1. Welcome, Introductions, and Review of Agenda: A quorum was established. The meeting was called to order by Chair Manny Prieguez at 1:05 P.M. The meeting was recorded on video.

Chair Prieguez stated that he would like to discuss the more difficult and complicated topics first; in particular those that DERM has to deal with the most with the public. He then stated that he would like to discuss slip transfers in restricted areas and reach some consensus. Chair Prieguez also stated that if the discussion of the slip transfer topic is completed, he would like to start working on the performance criteria for Marine Facilities. He asked if DERM staff had any comments and Dr. Markley responded that DERM didn't have anything to add to the documents that were presented to the committee in the past. However, she did review the items that were previously handed out to the committee. These items included a list of bullet points for discussion and a more detailed way of incorporating the concept of slip transfer into the MPP by inserting it as one of the ways that an applicant can provide mitigation, in an instance when their project doesn't meet the guidelines of the plan.

Dr. Markley told the committee that the summary report (previously discussed at the July 1, 2009 meeting) as required by the ordinance had been completed by DERM and that it was included in the packets that had been given to the members. She clarified that it isn't necessarily needed for the topic being considered at this meeting but that it will be increasingly important as they discuss other topics. Some members offered brief comments about the report. Chair Prieguez responded that since the committee members had not had a chance to review the report, they should review it and forward any questions or comments to DERM via email.

Chair Prieguez responded to a question about discussion and voting on slip transfers by stating that it was possible that a vote could occur on the topic if a consensus is reached among the committee members to make a recommendation.

Mr. Bibeau distributed a document that he described as his summary and analysis of data and proposed amendments to the MPP, the first of which was the insertion of specific language related to slip transfers. Mr. Bibeau emphasized the Board of County Commissioners 2005 resolution that required preparation of a policy for the concept of slip transfers on the Miami River and its tributaries. Mr. Bibeau then made a motion as follows:

"Adopt the Manatee Protection Plan consistent with the data and analysis on pages 1 & 2 of the document that has been distributed to insert all of the text under number 1 beneath proposed amendments on page 3, to insert all the text that is in quotes and underlined, so moved Mr.

Chair.” In response to a request for clarification of his motion by the Chair, Mr. Bibeau stated that he made a motion that the Manatee Protection Plan Review Committee to recommend to the Board of County Commissioners the insertion of the underlined text into the Manatee Protection Plan under number 1 in his written report (see below). The motion was seconded by Mr. Bunnell.

“Boat Slip Transfers

Allow for legal boat slips to be transferred from one “donor location” on the Miami River or it’s tributaries / canals to another “recipient location” on the Miami River or its tributaries /canals via the use of recorded covenants running in perpetuity noting the quantity of slips being transferred, lost by the “donor site” and gained by “recipient site”

Slip transfer would serve as a form of mitigation to compensate for the potential impacts to manatees from proposed new operations or expansion of marine facilities in sensitive habitats above the guidelines recommended for manatee protection.

Slip transfers as a form of mitigation to reduce potential impacts to manatees only have the ability to offset potential impacts if they represent an actual reduction in use of slips at the donor site.

To assure no net increase in impact to manatees, slips should not be transferred from one tributary to another or from one geographic area to another. For example, for a project on the Miami River or its tributaries / canals, both the donor and recipient sites should be located on the Miami River, its tributaries and canals

Only slips with all required approvals should be eligible for transfer. Illegal or unauthorized docking should be ineligible for transfer.

Dry or wet berths should be considered for transfer.

Transfers should require the consent of the property owner(s) involved (donor and receiving properties) and restrictive covenants running with the land in favor of Miami-Dade County should be required on the donor and recipient sites.

A mechanism could be created to also facilitate transfers to or from properties that do not require a construction permit from DERM.”

The Chair requested that Mr. Bibeau further explain the pending motion so that the item could be discussed prior to the vote. Mr. Bibeau cited his interpretation of the data and analysis and the Board of County Commissioners’ 2005 resolution as his justification for the motion. He also further explained that his proposed slip transfer concept is intended to only apply to the Federal Navigable Channel in the Miami River and not any of the tributaries. He opined that property owners adjacent to the Federal Navigable Channel have more property rights.

A discussion ensued among the committee members about Mr. Bibeau’s motion. At the request of a committee member, Dr. Markley commented that the Mr. Bibeau’s interpretation of the data as presented in his document was not consistent with the most up to date data that DERM has provided to the committee over time and in the summary report that was handed out. Dr. Markley made some suggestions related to methods the committee members could use to interpret the data in a holistic manner. Dr. Markley also addressed the issue of ethics and other procedural requirements of the committee members after a committee member raised concerns of possible conflict of interest issues.

Some committee members voiced support of the concept of slip transfers in a general sense and that if recommendations are made about it, they should not be exclusive to the Miami River. Other members of the committee voiced concern about the potential increased impacts to the manatee from slip transfers in sensitive manatee areas.

Mr. Bibeau responded to these concerns during the discussion. Mr. Prieguez called the question. The motion failed with the members of the committee voting as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	No	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	No
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	No	Manny Prieguez, Chair	No
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent

* Mr. Bunnell left the meeting after the vote at 2:13 PM

Mr. Moser suggested that the discussion continue in general about slip transfers. The discussion concerning slip transfers among the committee members continued.

Chair Prieguez recognized Mark Lewis to present his slip transfer proposal to the committee. Mr. Lewis passed out to the committee a document with his suggested recommendations for slip transfers. His recommendations included updating the Essential Manatee Habitat map and proposed protocol for transfer of commercial slips. This protocol focused on transfers of slips out of sensitive habitats to less sensitive habitats so as to decrease potential impacts to manatees; however, it did not include recommendations to transfer slips from less sensitive areas into more sensitive habitat. Mr. Lewis recognized that some issues may not be addressed in his proposal but clarified that it was simply to facilitate further discussion about the topic of slip transfers. Several members of the committee asked questions about his proposal during the discussion. The topics of discussion included suggested language changes, the concept of “upstream” verses “downstream” transfers, Essential Manatee Habitat designations, DERM’s current slip transfer policy, including where and under what circumstances slip transfers are applicable.

Chair Prieguez stated that the discussion on this topic will continue at the next meeting and that the committee should use the time until the next meeting to review the ideas and consider them. He then closed the discussion to allow for public comment.

3. Public Comment

Ed Swakon, President of the Miami Marine Council, commented that the committee had worthwhile discussion and heard a lot of good ideas. He stated that perhaps the solution is a blending of Mark Lewis’ proposal, DERM’s proposal and possibly some of the concepts that he submitted to the committee several meetings ago. He stated that he would take the ideas from this meeting and try to come up with a revised proposal that would be more helpful. He stated that he would try to provide this to the committee by the next meeting.

Richard Perez, an attorney for Holland & Knight, LLP, provided a copy of a letter to the committee that he sent to DERM on June 1, 2009. After distributing this letter, Mr. Perez summarized his opinion that the current use of a density of 1 motorboat per 100 feet of shoreline for multifamily residential property is not equitable compared to single family docks, and should be less restrictive.

Several committee members asked Mr. Perez to clarify the number of boat slips he would recommend for multifamily properties. In response, Mr. Perez suggested that perhaps 2 or 3 boat slips per 100 feet of shoreline would be acceptable.

Dr. Markley responded to Mr. Perez's comments and stated that after DERM received Mr. Perez's letter, DERM staff consulted with the Fish & Wildlife Conservation Commission staff about the 1:100 policy and had just received a response from the State the day before the meeting. Dr. Markley stated that the 1 motorboat to 100 feet of shoreline was derived from a longstanding policy that was approved by the Governor and Cabinet of Florida in 1989 and has been applied for several decades for several purposes. Dr. Markley also explained that the 1:100 policy is often included in manatee protection plans to address and balance certain property rights in areas where the manatee data indicate that it is not appropriate to expand marinas or facilities. She then explained that the state collected extensive data on the actual water frontage of single family docks and boat density in several counties, and that their policy is based on this empirical data, and is neither subjective nor arbitrary. Dr. Markley added that DERM had done similar data analysis on single family waterfront properties in Miami-Dade, which indicates average lot frontage is greater than 100 feet, and average number of vessels is less than one per lot. In summary, Dr. Markley stated that to increase the density of slips at multifamily residential docks above the 1:100 policy in important manatee habitats, including tributary mouths, would not be supported by the empirical data on residential dock density and would, in DERM's opinion, increase the risk to manatees by creating more vessel trips through the most sensitive areas, resulting in a greater chance of disturbance, injuries and deaths. Dr. Markley stated that DERM had prepared a response to Mr. Perez's letter with the State's response attached that would be provided to him after the meeting and that the letter with the attachment would also be provided to the committee in the future.

Approval of the July 1, 2009 meeting minutes: Lynda Green made a motion to approve the July 1, 2009 meeting minutes. The motion was seconded by T. Spencer Crowley, III. The minutes were unanimously approved by the committee members present. Mr. Bunnell, Mr. Karl and Dr. Zaias were not present for the vote.

Proposed date for next regular meeting(s): Monday, August 17, 2009 from 12:00 Noon to 3:00 P.M. The committee scheduled the following future meetings: August 24, 2009 from 1:00 PM to 4:00 PM, September 9, 2009 from 1:00 PM to 4:00 PM and a tentative meeting for September 23, 2009 from 1:00 PM to 4:00 PM.

The meeting adjourned at 4:50 P.M.